

**REMARKS/ARGUMENTS**

Claims 15-52 are pending. By this Amendment, claims 15 and 49 have been amended and claims 53-74, i.e., the non-elected claims, have been canceled subject to Applicant's right to pursue a divisional application toward this subject matter. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

On page 3 of the Office Action, the drawings were objected to as failing to show a CPAP device with an air supply system and a controller. By this Amendment, new Figure 1A is provided and the corresponding description thereof is added to page 3 of the specification. Figure 1A is schematic in nature and consistent with the teachings of the specification and ResMed's U.S. Patent No. 5,245,995, referenced at page 5 of the original application. Reconsideration and withdrawal of the objection is respectfully requested.

Claims 15, 18-30, 32-36 and 43-49 were rejected under 35 U.S.C. §102(b) over Servidio et al. In addition, claims 15, 18-25, 33-36, 43, 44, 49 and 52 were rejected under 35 U.S.C. §102(e) over Woodring et al. These rejections are respectfully traversed.

By this Amendment, independent claims 15 and 49 are amended to specify that the controller is programmed so that activation of the first and second input devices controls the at least two operational modes of the CPAP apparatus. Neither Servidio et al. nor Woodring et al. teaches or suggests a controller that is programmed in this manner. During a telephone interview with Examiner Dawson on April 23, it was indicated that

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amendment of claims 15 and 49 in this manner would appear to obviate the rejections under 35 U.S.C. §102. The amendments are also consistent with the Examiner's tacit suggestion on page 4, lines 1-6 and 12-16, in which the Examiner applied the rejections based on Servidio et al. and Woodring et al. because the claims did not specifically recite that the controller was programmed to carry out the recited functions.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 16, 17, 31, 37-42 and 50-52 were rejected under 35 U.S.C. §103 over Servidio et al. in view of Anderson. In addition, claims 16, 17, 37 and 50-51 were rejected under 35 U.S.C. §103(a) over Woodring et al. in view of Anderson. However, these claims depend from claim 15 or 49, which are allowable for the reasons described above. In addition, Anderson does not make-up for the deficiencies noted above, as Anderson was only relied upon for its teachings of push buttons and not a controller as claimed.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

In view of the above amendments and remarks, Applicant respectfully submits that all the claims are patentable and that the entire application is in condition for allowance.

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Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_



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Attachments:

Figs. 1A, 1B, 2 (2 sheets)

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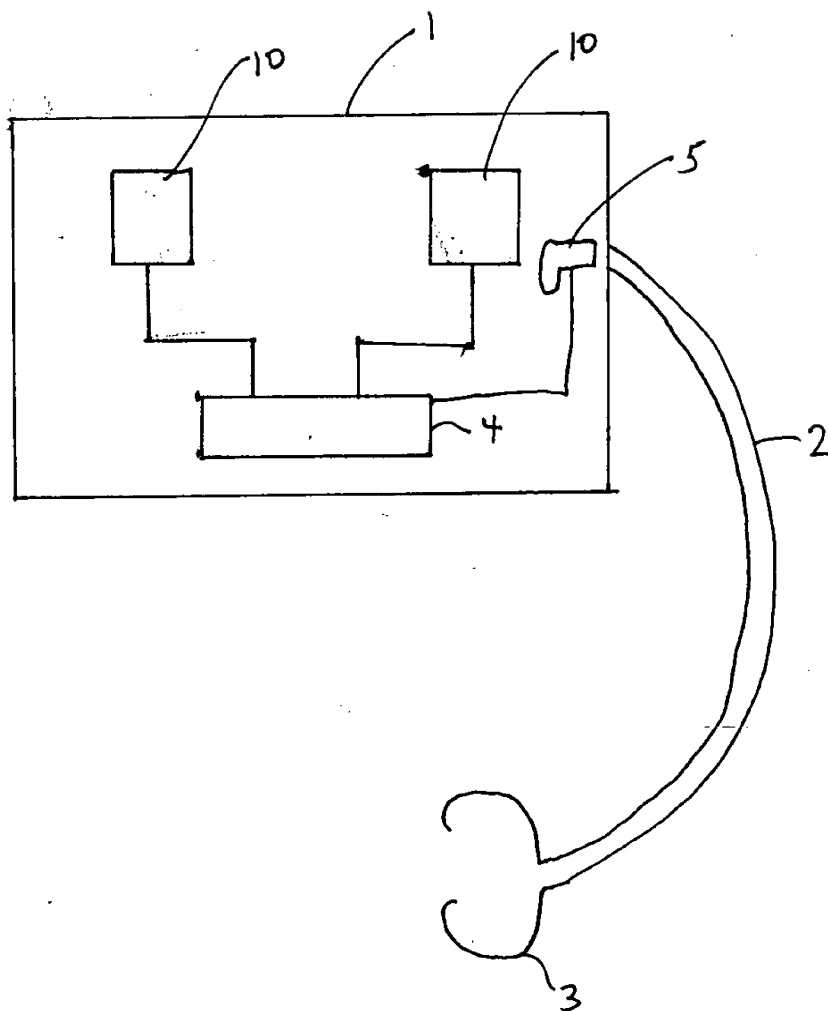
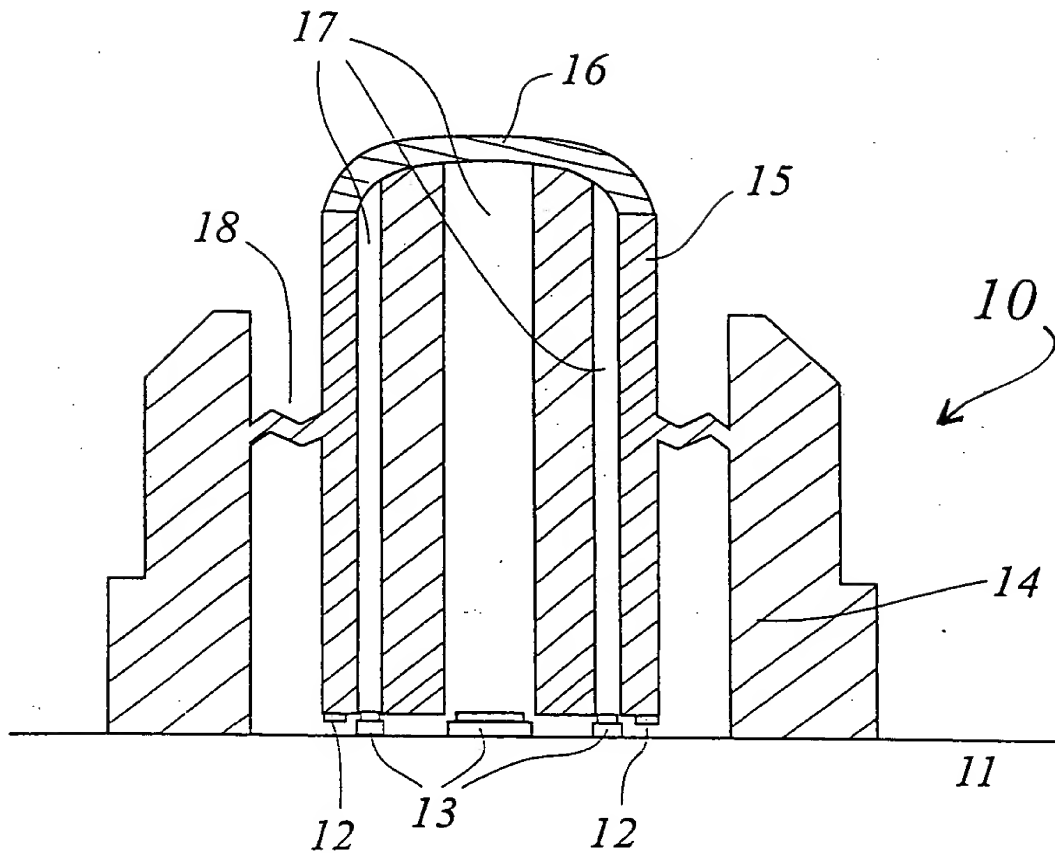
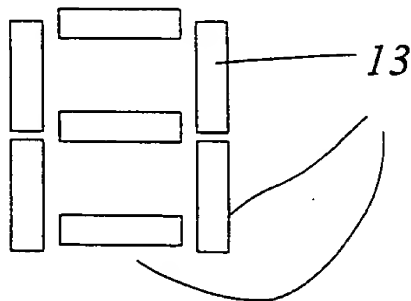


Fig. 1A



*Fig. 1B*



*Fig. 2*